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PRESIDENT'S REPORT:
The US-Taiwan Business Council & U.S.-Taiwan Relations - 2009
December 31, 2009

On January 20th of this year, our country welcomed a new president into office and with him a new U.S. government Asia team. This influx of new blood was most welcome, particularly given the final several years of Taiwan relations under President Bush, and the extent to which the relationship had deteriorated since 2001.

President Obama has built a strong Asia team with highly experienced Assistant Secretaries at the U.S. Departments of Defense and State and well qualified officials at the National Security Council (NSC). He has – wisely, in my view – retained his Asia team at the Office of the United States Trade Representative (USTR). As I will note below, that particular decision has already reaped tangible benefits - although Taiwan has not yet capitalized on them.

US-Taiwan Relations

When President Obama took office, his initial focus was on the state of our nation's economy and on the two wars we are presently fighting in Iraq and Afghanistan. Later in the year, however, focus has also been placed on Asia, starting with Secretary of State Clinton's speech in Bangkok in July, where she outlined the Obama administrations Asia policy goals and objectives.

Meanwhile, Taiwan has been distracted by its own priorities; improving relations with China and its domestic efforts to jumpstart its economy (which fell off a cliff in November and December of 2008). In the early part of 2009, President Ma – under pressure from Taiwan industry – started to articulate more clearly the notion of an Economic Cooperation Framework Agreement (ECFA) or some sort of Free Trade Agreement (FTA) with China. In many respects, the ECFA concept mirrors Vice President Vincent Siew's long-time vision of a Cross Strait Common Market. Conceptually, it also enjoys broad support amongst an important domestic coalition of technocrats, business leaders, ruling party politicians and a majority of the citizenry.

The Ma government has signed 9 agreements with China since taking office in May of 2008. These agreements represent important normalization to areas of commerce and social and criminal cooperation, and create some momentum and trust for the two parties so that they can then potentially tackle thornier issues. In 2009, Taiwan also welcomed in excess of 700,000 Chinese visitors - including numerous representatives of the Chinese government.

In light of the rapprochement between Taiwan and China, the Obama administration chose a cautious approach to any Taiwan-specific initiatives, and they in essence left the Bush administration's end-term policies in place. While the arms freeze was broken in October 2008, several important defense & security matters remain unaddressed. Some former Bush administration officials claim that this was intentional. I believe that it was not, yet it left the Obama team with some unfinished business. Meanwhile, a two-year freeze in the Trade and Investment Framework Agreement (TIFA) process – halted over access to the Taiwan market for certain types of U.S. beef products – still remains.

Trade Policy

The TIFA freeze over the issue of beef imports is actually the second such trade dialogue freeze this decade. I have been unable to identify any other significant bilateral trade relationship that is treated similarly, and I would also suggest that it is a counterproductive approach to extracting concessions from Taiwan.



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TIFA is primarily a platform for the U.S. to engage with its trading partners on *our* "issues". The U.S. attitude towards bilateral talks with Taiwan, including their being frozen due to lingering issues, has resulted in important attitude changes amongst Taiwan's technocrats and bureaucrats. While this attitude change is still subtle, it suggests that our leverage in trade negotiations is deteriorating.

A decade ago America was Taiwan's most important trading market. When coupled with our security relationship and guarantees, it meant that there was no more important relationship for Taiwan than that with the U.S. This is now changing. China's economic importance to Taiwan has soared, and that relationship will soon be formalized in a free trade agreement. Meanwhile, America's increasing inability to maintain a credible and consistent security commitment undermines Taiwan's confidence in our resolve. Couple that with our "on again off again" trade policy, and we are doing a great deal to undermine broader U.S. interests in the market.

In the past, the U.S. often saw TIFA meetings as a U.S. deliverable principally benefiting Taiwan. As if by sitting down and addressing trade concerns with their counterparts the U.S. was "doing Taiwan a favor". Yet Taiwan played to that notion as well, when it frequently encouraged the view that the photo ops were the key deliverable, not the substance of the meetings. But those days are long since gone. There are now important members of the Taiwan government who do not see the optics of such meetings and consultations as of primary importance, and who bristle at the apparent one-sidedness of the arrangement. There is no doubt that we still maintain some leverage in our trade relationship with Taiwan, but it is vastly reduced from where we used to be. And as we move into 2010 – the year of the ECFA – we will find that leverage continuing to track downward. Therefore, a continued delay of TIFA will not be greeted with universal concern by all constituencies of the Taiwan government.

That said, the USTR (Eric Altbach and Tim Stratford at USTR and Hanscom Smith and Rick Ruzicka at AIT are the real stars here) was able to secure a resolution to the beef issue in October, with an agreement that had been several years in the making. Regrettably, the Ma government's handling of the roll-out of the decision was appalling, and the beef issue turned into a major domestic battle in the run-up to the December 5 elections. The Taiwan legislature's recent decision to enact populist changes to Taiwan's Food Sanitation Act is taking what had been a win in the bilateral relationship and ensuring that it remains a major problem. The USTR and the U.S. Department of Agriculture released a joint statement on December 29 criticizing Taiwan's move towards more restrictions on U.S. beef - a decision that could have possible repercussions in the security relationship as well (addressed below).

One final but important point to make is that President Obama does not have - nor can he have - a sound Asia policy in the absence of a trade liberalization policy. His recent trip to Asia was particularly instructive, as the top priority of every Asian ally and partner was trade liberalization and America's leadership role in such efforts. Asian nations welcome improved access to China's market, but they are uncomfortable at China being the only game in town – they look to the U.S. for balance and options. Whatever Mr. Obama's views of global trade liberalization, given the absence of any Congressional interest in passing Trade Promotion Authority - along with other presidential priorities - it is unlikely that Asia policy generally will achieve the goals so eloquently laid out by Mrs. Clinton in July. There appears to be no interest within the U.S. government in placing America back in the forefront of global trade talks with a mandate to liberalize, and this is what matters most to our Asian friends and allies.

Defense Policy

After a 7-month arms freeze, President Bush notified a number of important programs to Congress in October of 2008. That said, however, the manner in which the Bush administration handled this issue, and the ultimate destruction of any meaningful Taiwan arms sales process, has had ongoing implications.



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As Mr. Obama took office he was left with several programs not yet sent for notification to Congress. Those programs included Black Hawk helicopters, submarines, 2 PAC-III batteries with accompanying munitions, as well as the unaddressed matter of a Letter of Request (LOR) for Pricing and Availability (P&A) data for replacement F-16s.

Some former Bush administration officials have suggested that these omissions were intentional, and that they were merely leaving "easy options" for Mr. Obama to handle – this is complete nonsense. The October 2008 decision was intended to meet a specific dollar value arrived at by Mr. Bush, Dr. Rice and Mr. Hadley, and the programs were then shuffled and contorted to reach that dollar figure – US\$6.5 billion (actually it ended up at US\$6.4 billion). This approach resulted in an unwieldy PAC-III program mess, which is the most instructive example on the value of the program itself dictating the terms of its notification rather than vice versa. The PAC-III mess took a year to sort out and will require a second notification to resolve.

In October 2008, for the second time during his two terms - fall 2007 being the first - Mr. Bush also chose to "package" the arms sales together. Throughout the arms freeze period the administration stacked notifications as ready for congress, rather than sending them along to the Hill one by one when they were ready. This was contrary to the original intent of the 2001 decision to do away with the annual spring arms sales review. According to that decision, Taiwan was to be treated as a normal and regular security partner. But by the fall of 2008, the Bush administration had established a policy of packaging notifications in a vain attempt to reduce Chinese ire over Taiwan arms sales.

While several programs – such as the Black Hawks – have been ready for notification for well over a year, they currently remain at State. The Council had felt it likely that Mr. Obama and his colleagues would view the period after his trip to China and the Copenhagen Climate Change conference as the optimum timeframe for notifying congress on the Black Hawk helicopters, the clean up package for PAC-III, and a small notification addressing a funding gap for Po-Sheng - Taiwan's C4ISR program. But it now appears as if that timeline is slipping, and this is not an encouraging development. When can we reasonably declare that we are experiencing another arms freeze, or indeed that we have now entered a phase in which the U.S. undertakes rolling freezes which appear to be lengthening at each stage?

It is always important to note that we do not provide arms to Taiwan as a goal unto itself. The U.S. provides arms to Taiwan in response to China's force modernization efforts. It is not arms sales to Taiwan that are a barrier to improved US-China relations, but rather it is China's military modernization, training and deployment that threatens peace and security in the Taiwan Strait, and it is supposed to trigger a material U.S. response.

China opposes all arms sales to Taiwan irrespective of platform or capability, and thus our government only plays to the Chinese position when it delays notifications or attempts to nuance requirements. The Chinese government can view these extended periods of delay, angst and commensurate half decisions and non-decisions as important improvements in their position on this issue. If the Obama administration balks at providing replacement F-16 fighters to Taiwan, China will have won a major victory in the Taiwan Strait without firing a shot.

Meanwhile, the Taiwan side is watching with increasing exasperation. Year-on-year increasing sums of money budgeted for Taiwan force modernization is being returned to Taiwan's treasury as a consequence of this increasingly dysfunctional process employed by the U.S. 2010 almost certainly represents the last year in which large sums of money for future procurement will be made available in the absence of a commitment from the U.S. to proceed with sales in a timely fashion.



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As President Ma has noted on numerous occasions, Taiwan understands fully the need for continued arms sales to underpin Taiwan's engagement with China. They have factored in the impact to Taiwan-China relations, and yet still see and argue for their importance and continue to support these sales. If America is indeed interested in seeing the process of cross-Strait engagement and concessions continue, it needs to be consistent and to make the difficult decisions on arms sales – both on F-16s as well as on the less controversial programs like Black Hawk.

Also, the Financial Times noted on December 30 that "Taiwan's foreign minister Timothy Yang told legislators on Tuesday [December 29] that it was the Taiwan government's understanding that 'there is a certain interaction' between the beef ban and future U.S. arms sales to Taiwan." This sort of linkage directly violates the Taiwan Relations Act (TRA), which clearly states that "the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the [defense] needs of Taiwan."

Linking the resolution of our beef "issues" to our overall trade relationship has already damaged our broader commercial interests in Taiwan with the 2-year TIFA freeze. Now we are potentially undermining our security commitments, as well as running afoul of U.S. law, over this issue. There is literally no other U.S. bilateral partner in the world treated in such a manner. Every important bilateral relationship has ongoing "issues", but they do not, and should not, undermine broader interests, nor do they remove the need to keep the relationship moving forward.

2010

After a year in office for the Obama administration, we are already seeing the Taiwan fault lines open. The Departments of State and Defense, as well as USTR, appear to be willing to argue for and to support a relationship with Taiwan on its own merits. Regrettably, this effort runs smack into a White House that clearly views Taiwan as a barrier to U.S. interests in Asia. If our Asia policy is simply our China policy and vice versa, what possible hope is there that our Taiwan policy can compete with White House priorities such as climate change, U.S. debt issues, or simply our overall relationship with China?

As the president's experiences with China on climate change demonstrate, however, there are no gains to be had by making unilateral concessions to China in the vain hope that they will show flexibility on core Obama administration priorities. Conversely, strong support for Taiwan strengthens both our own and Taiwan's standing with China. But that requires the Obama administration to make the tough decisions - F-16 LOR - as well as the easier ones such as presidential transit visits through the U.S. and U.S. cabinet visits to Taiwan.

Council priorities for this year will include:

- The Council will argue for a full resumption of TIFA meetings without preconditions and with an agenda that identifies areas of liberalization that can - in some way - counter China's efforts to challenge U.S. economic interests in Taiwan.
- The Council will press for the end to packaging of arms sales notifications. It is undermining U.S. resolve and significantly weakening Taiwan force modernization.
- The Council will support the acceptance of the LOR for 66 F-16s to replace Taiwan's aging F-5s and Mirage 2000s and to offer some material response to China's ongoing investment in 4th generation fighters such as the J-10.
- The Council will support the resumption of cabinet officer visits to promote U.S. economic interests on the island.



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The US-Taiwan Business Council remains committed to promoting the US-Taiwan relationship, and we thank our entire membership, colleagues, and friends for their support in 2009.

I wish you every happiness and success in 2010.

Sincerely yours,

Rupert J. Hammond-Chambers
President
US-Taiwan Business Council